

REFERENCE TITLE: homicide; special sentencing provisions

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2319

Introduced by
Representative Driggs

AN ACT

AMENDING TITLE 13, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-709.05; AMENDING SECTION 13-1103, ARIZONA REVISED STATUTES; RELATING TO SENTENCING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 13, chapter 7, Arizona Revised Statutes, is amended
3 by adding section 13-709.05, to read:

4 13-709.05. Special sentencing provisions: driving while
5 intoxicated; homicide; definition

6 A. A PERSON WHO IS CONVICTED OF COMMITTING A VIOLATION OF SECTION
7 13-1102, 13-1103 OR 13-1104, WHICH OFFENSE WAS COMMITTED WHILE THE PERSON WAS
8 DRIVING A MOTOR VEHICLE AND THE PERSON'S ALCOHOL CONCENTRATION AT THE TIME OF
9 COMMITTING THE OFFENSE WAS 0.20 OR MORE, SHALL BE SENTENCED TO A TERM OF
10 IMPRISONMENT THAT IS AT LEAST FIVE YEARS MORE THAN THE PRESUMPTIVE SENTENCE
11 AUTHORIZED UNDER THIS CHAPTER AND THE PERSON IS NOT ELIGIBLE FOR SUSPENSION
12 OF SENTENCE, COMMUTATION OR RELEASE ON ANY BASIS UNTIL THE SENTENCE IMPOSED
13 IS SERVED.

14 B. FOR THE PURPOSES OF THIS SECTION, "ALCOHOL CONCENTRATION" HAS THE
15 SAME MEANING PRESCRIBED IN SECTION 28-101.

16 Sec. 2. Section 13-1103, Arizona Revised Statutes, is amended to read:

17 13-1103. Manslaughter; classification

18 A. A person commits manslaughter by:

- 19 1. Recklessly causing the death of another person. ~~; or~~
- 20 2. Committing second degree murder as defined in section 13-1104,
21 subsection A upon a sudden quarrel or heat of passion resulting from adequate
22 provocation by the victim. ~~; or~~
- 23 3. Intentionally aiding another to commit suicide. ~~; or~~
- 24 4. Committing second degree murder as defined in section 13-1104,
25 subsection A, paragraph 3, while being coerced to do so by the use or
26 threatened immediate use of unlawful deadly physical force upon such person
27 or a third person which a reasonable person in his situation would have been
28 unable to resist. ~~; or~~
- 29 5. Knowingly or recklessly causing the death of an unborn child by any
30 physical injury to the mother.

31 6. CAUSING AN ACCIDENT WHILE DRIVING A MOTOR VEHICLE THAT RESULTS IN
32 THE DEATH OF ANOTHER PERSON IF THE PERSON DRIVING THE MOTOR VEHICLE IS IN
33 VIOLATION OF SECTION 28-1381, 28-1382 OR 28-1383.

34 B. An offense under subsection A, paragraph 5 of this section applies
35 to an unborn child in the womb at any stage of its development. A person
36 shall not be prosecuted under subsection A, paragraph 5 of this section if
37 any of the following applies:

- 38 1. The person was performing an abortion for which the consent of the
39 pregnant woman, or a person authorized by law to act on the pregnant woman's
40 behalf, has been obtained or for which the consent was implied or authorized
41 by law.
 - 42 2. The person was performing medical treatment on the pregnant woman
43 or the pregnant woman's unborn child.
 - 44 3. The person was the unborn child's mother.
- 45 C. Manslaughter is a class 2 felony.